

THE PRACTICE OF PAGANG GADAI OF HIGH HERITAGE ASSETS IN KANAGARIAN GANGGO MUDIAK IN THE PERSPECTIVE OF ISLAMIC LAW

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Abstract

This study aims to analyze how the practice of *pagang gadai* is carried out by the community according to the perspective of Islamic law. This study uses a qualitative method with a phenomenological approach, data sources are taken through interviews with ten people in Kenagarian Ganggo Mudiak, Pasaman Regency, West Sumatra Province. To strengthen the interview data, the researcher also made direct observations on the process and procedures for the practice *pagang gadai* is carried out by the community at the research location. All research data were then analyzed using the Miles & Huberman technique. The research findings found two community mistakes in the practice of *pagang gadai*, namely: a) *pagang gadai* is carried out by the community in Kanagarian Ganggo Mudiak is not in accordance with *gadai* in the perspective of Islamic sharia law, b) the practice of *pagang gadai* is carried out by the community contains elements of usury which is legally contrary to sharia. Islam. Whereas in the Islamic context the application of *gadai* is not for profit but aims to help others. The recommendation from the research findings is that it is necessary to provide education to the public about how to *pagang gadai* procedures that are by Islamic sharia guidelines so that the error in practices is *pagang gadai* is not sustainable in the community.

Keywords: *Phenomenology, practice, Pagang Gadai, Islamic Law*

Abstrak

Penelitian ini bertujuan untuk menganalisis bagaimana praktik *gadai pagang* yang dilakukan oleh masyarakat menurut perspektif hukum Islam. Penelitian ini menggunakan metode kualitatif dengan pendekatan fenomenologi, sumber data diambil melalui wawancara dengan sepuluh orang informan di Kenagarian Ganggo Mudiak, Kabupaten Pasaman, Provinsi Sumatera Barat. Untuk memperkuat data wawancara, peneliti juga melakukan observasi langsung terhadap proses dan tata cara praktik *pagang gadai* yang dilakukan oleh masyarakat di lokasi penelitian. Semua data penelitian kemudian dianalisis menggunakan teknik Miles & Huberman. Temuan penelitian menemukan dua kesalahan masyarakat dalam praktik *pagang gadai*, yaitu a) *pagang gadai* yang dilakukan oleh masyarakat di Kanagarian Ganggo Mudiak tidak sesuai dengan *gadai* dalam perspektif hukum syariah Islam, b) praktik *pagang gadai* yang dilakukan oleh masyarakat mengandung unsur riba yang secara hukum bertentangan dengan syariah Islam. Sedangkan dalam konteks Islam penerapan *gadai* bukan untuk mencari keuntungan tetapi bertujuan untuk membantu sesama. Rekomendasi dari hasil penelitian adalah perlunya memberikan edukasi kepada masyarakat tentang tata cara *pagang gadai* yang sesuai dengan syariat Islam agar kesalahan dalam praktik *pagang gadai* diminimalisir dan dapat tidak berkelanjutan di masyarakat.

Kata Kunci: *Fenomenologi, praktik, Pagang Gadai, Hukum Islam.*

A. Introduction

Pagang gadai, the local term for pawn, is a form of economic interaction done by the society in Kanagarian Ganggo Mudiak, Bonjol District, Pasaman Regency.¹ It is because pawn is one of the *wasilah* (ways) for the society to get a loan that can be used to fulfill various needs in life.² Pawning means giving up land to receive a

¹Dadan, M. *Aspek Legal Lembaga Keuangan Syari'ah*, (Yogyakarta: Safira Insani Press, 2009), h. 32

²Syauqoti, Roifatul, and Mohammad Ghozali, "Analisis Sistem Lembaga Keuangan Syariah dan Lembaga Keuangan Konvensional." *Jurnal Iqtishaduna* 14, No. 1 (2018), h. 19

sum of money in cash,³ by the term that the person pawning (pawn debtor) remains entitled to get the land back by redeeming it.⁴

For the society in Kanagarian Ganggo Mudiak, the land used as the collateral in *pagang gadai* is a high heritage asset that is not owned by a certain personal name. Instead, the possession of the asset is shared or communal.⁵ This is because, in the rule of Minangkabau *adat* (tradition), high heritage assets should not be traded or owned personally since the assets are inherited by matrilineal lineage-*bundo kanduang* guarded by *niniak Mamak* (the leader of a clan given the title 'Datuk') and managed or cultivated by *urang sumando* (a man merged with a woman's family due to marital relationship). Such high heritage assets can only be used as collateral for the debt if the family is faced with an economic emergency according to *adat*.⁶

Based on the information we got, the practice of *pagang gadai* in Kanagarian Ganggo Mudiak has not been fully by Islamic law.⁷ In fact, Minangkabau society, including that in Kanagarian Ganggo Mudiak, has the philosophy of life "Adaik Basandi Syarak, Syarak Basandi Kitabullah (Tradition Hinges on Religion, Religion Hinges

³Muzakkir, S. "Kajian Hadits pada Fatwa Dewan Syariah Nasional Tentang Sistem Distribusi Hasil Usaha dalam Lembaga Keuangan Syariah." *TAFALQUH: Jurnal Hukum Ekonomi Syariah dan Abwal Syabsiyah* 5, No. 2 (2020), h. 44

⁴Iswanaji, Chaidir, Siti Afidatul Khotijah, and M. Zidny Nafi' Hasbi. *Lembaga Keuangan Syariah Buku Ajar Konsentrasi Syariah*, (Penerbit Adab, 2021). h. 1

⁵Febriasi, Kikky, "Perkembangan Syarat Menggadai Tanah Harta Pusaka Tinggi dalam Masyarakat Adat Minangkabau di Kabupaten Agam Nagari Kamang Mudiak," *Premise Law Journal* 4 (2015), h. 1

⁶Murniwati, Rahmi, Zefrizal Nurdin, and Anton Rosari. "Penyelesaian Sengketa Tanah Harta Pusaka Tinggi Yang Sudah Disertifikatkan Melalui KAN Koto Tuo Balaigurah Agam Sumatera Barat," *Soumatara Law Review* 4, No. 1 (2021). h. 36

⁷Sulaiman, R. *Pertalian Adat dan Syara'*, (Padang: IAIN-IB Pres. Tt, 2015), h. 36

on al-Qur'an)"⁸. Syarak Mangato Adaik Mamakai (Religion Tells, Tradition Applies).⁹ Therefore, in this study, the researchers explored the practice of *pagang gadai* by the society in Kanagarian Ganggo Mudiak.¹⁰ Furthermore, the researchers analyzed the practice based on Islamic law. Hopefully, this study can contribute to changing the economic system that is not by the values of Islamic teachings into the economic system guided by Islamic teachings.¹¹

B. Method

This study uses a qualitative method with a phenomenological approach. Sources of data were taken through interviews with ten people in Kenagarian Ganggo Mudiak, Pasaman Regency, West Sumatra Province, through a set of interview protocols that have been validated with one expert in their field.¹² To strengthen the interview data, the researcher also made direct observations on the process and procedures for the practice *pagang gadai* carried out by the community at the research location. The informants determined in this study were first selected using the purposive sampling technique, and the selection of the informants had met the four criteria as set out by previous

⁸Mirdad, Jamal, and Al Ikhlas, "Tradisi Pegi Tepat Masyarakat Desa Talang Petai Kabupaten Mukomuko dalam Perspektif Hukum Islam." *Juris (Jurnal Ilmiah Syariah)* 17, No. 2 (2018), h. 193–204

⁹Jayanuarto Ranga, S. H. Khudzaiifah Dimiyati, S. H. Absori, and S. H. Natangsa Surbakti., "Keberlakuan Hukum Adat Dapek Salah Berbasis Pegang Pakai Adat Di Kota Bengkulu." PhD diss., Universitas Muhammadiyah Surakarta, 2020. h. 1

¹⁰Putra, Aldomi, Hamdani Anwar, and Muhammad Hariyadi., "Lokalitas Tafsir Al-Qur'an Minangkabau (Studi Tafsir Minangkabau Abad Ke-20)." *AL QUDS: Jurnal Studi Alquran dan Hadis* 5, No. 1 (2021), h. 309–36

¹¹Susanti, Neneng Desi. 'Penerapan Hukum Kewarisan Islam Terhadap Sistem Pembagian Warisan Adat Melayu dan Adat Minang di Kota Dumai,' *JURNAL AZ-ZAWAJIR* 1, No. 1 (2021), h. 32–47

¹²Engkizar, Engkizar, Indah Muliati, Rini Rahman, and Alfurqan Alfurqan. "The Importance of Integrating ICT Into Islamic Study Teaching and Learning Process," *Khalifa: Journal of Islamic Education* 1, No. 2 (2018), h. 148–68

researchers,¹³ namely: understanding well the problems being studied, still active in the field being studied, having time to study.¹⁴ provide information to researchers, and provide information by the facts that occur in the field.¹⁵ To meet the criteria as an informant,¹⁶ all of the informants were from the Kenagarian community of Ganggo Mudiak, Bonjol District, Pasaman Regency, West Sumatra, Indonesia, and the informant had previously been directly involved in the practice of *paging gadai* pawns for high heritage assets. After collecting data in the form of interviews, documentation, and other supporting data, the researchers then analyzed using the Miles & Huberman technique.

C. Discussion

1. Research Findings

Ganggo Mudiak is a region in Bonjol District, Pasaman Regency. This region is located around the trans-Sumatera highway, approximately 60 km to the north of Bukittinggi. Bonjol District is very well known even by foreign countries because of its location on the equator. In addition, in this region, there was born a national hero who was very determined to confront Dutch colonialists.¹⁷ He is Peto Syarif who has the title “Tuanku Imam

¹³Kaputra *et al.*, “Dampak Pendidikan Orang Tua Terhadap Kebiasaan Religius Anak dalam Keluarga Jama’ah Tabligh.” *Al-Tadzkiyyah: Jurnal Pendidikan Islam* 12, No. 2 (2021), h. 249–68

¹⁴Engkizar Engkizar, Alfurqan, Murniyetti, & Muliati, I. “Behavior and Factors Causing Plagiarism Among Undergraduate Students in Accomplishing The Coursework on Religion Education Subject,” *Khalifa Journal of Islamic Education* 1, No. 1 (2018), h. 98–112

¹⁵Sugiyono, *Metode Penelitian Pendidikan Pendekatan Kuantitatif, Kualitatif, dan R&D*, (Bandung: Alfabeta, 2016), h. 150

¹⁶Kasmar, Indah Fadilatul, Viola Amnda, Mutathahirin Mutathahirin, Ana Maulida, Widia Wahana Sari, Sonika Putra, Fuady Anwar, Muhammad Taufan, and Engkizar Engkizar. “The Concepts of Mudarris, Mu’allim, Murabbi, Mursyid, Muaddib in Islamic Education.” *Khalifa: Journal of Islamic Education* 3, No. 2 (2019), h. 107–25

¹⁷Rozi, Safwan, “Negosiasi Islam Kultur dalam Gerakan Paderi Rao Di Sumatera Tengah (1820-1833).” *Kalam* 6, No. 1 (2012), h. 85.

Bonjol'.¹⁸ The livelihood of the society is farming, which is 75% of all residents' livelihoods.¹⁹

The practice of *pagang gadai* in Kanagarian Ganggo Mudiak, in general, is the same as the practice of *pagang gadai* in Minangkabau. Based on the interviews we conducted with *Wali Nagari* (the head of the region), he said that in *pagang gadai*, the pawn debtor gives the collateral for debt in the form of agricultural land or horticultural land, which is a high heritage asset, to the pawnbroker. The pawnbroker holds and utilizes the collateral land until the pawn debtor can redeem the debt. If the debt is repaid, then the assets used as collateral are returned to the pawn debtor because (s)he is the real owner of the assets. However, if the pawn debtor is unable to pay the debt, the pawnbroker will continue to hold and take advantage of the collateral. In addition, the profit likely gained while working on the land has exceeded the amount of debt and even exceeded the price of the land itself.²⁰

As it was mentioned above, what is used as compensation or collateral in *pagang gadai* is a high heritage asset, that is, the asset inherited from generation to generation by matrilineal lineage.²¹ It is because, in Minangkabau, the asset is not owned by an individual but is owned by a group or a clan.²² High heritage assets are handed down to Bundo Kandung, guarded by Niniak Mamak, and managed or cultivated by Urang Sumando. If there is a party that trades high heritage assets, it is against the customary law that

¹⁸Radjab, Muhamad. *Perang Paderi di Sumatera Barat, 1803-1838*. (Balai Pustaka, 1964), h. 120

¹⁹Pujama Yudha, Hendra Afriwan, S. Sn San Ahdi, and M. Ds. "Perancangan Komik Sejarah Perang Paderi di Sumatera Barat" The Heroes of Paderi", *DEKAVE: Jurnal Desain Komunikasi Visual* 8, No. 1 (2018), h. 1

²⁰Interview *Whit Wali Nagari Kenagarian Ganggo Mudiak*, (31 Desember 2018)

²¹Amir, S, *Pelaksanaan Hukum Kewarisan Islam dalam Lingkungan Adat Minangkabau* (Jakarta: Gunung Agung, 1984), h.32.

²²Winstar, Yelia Nathassa, "Pelaksanaan Dua Sistem Kewarisan Pada Masyarakat Adat Minangkabau." *Jurnal Hukum & Pembangunan* 37, No. 2 (2017), h. 154–86.

applies in Minangkabau society and the culprits can be subject to customary sanctions.²³

Although high heritage assets are not allowed to be traded, they may be used as collateral in liabilities agreements. In Minangkabau, it is called *di-sando* (seized).²⁴ The land that is used as collateral is seized by the pawnbroker until the debt to the pawnbroker is redeemed.²⁵ In the practice, the assets that are used as collateral in *pagang gadai* can be divided into several forms, namely:²⁶

- a. *Sando*, that is pawning the assets to the pawnbroker and the assets can be redeemed at any time. There is no set time requirement. If the pawn debtor has been able to pay off the debt, the pawnbroker is obliged to return the assets to the real owner (pawn debtor).
- b. *Sando Kudo*, is pawning the assets to a pawnbroker who holds multiple pawns. It means that the pawn debtor borrows money from the pawnbroker with several multiplications by the first loan nominal so that the total loan may equal the selling price of the asset or maybe more. Although it is possible to be redeemed, it is rather difficult for the pawn debtor to redeem the asset because of the large amount of debt.
- c. *Sando Agung*, that is pawning the assets forever. It is said that *sando aguang* applies *salamo matoari tabik, salamo bulan jo bintang barado, salamo awan bararak, salamo gagak hitam,*

²³Ismail, Ismail, "Akulturasi Hukum Kewarisan Islam dengan Hukum Kewarisan Adat Minangkabau." *Al Hurriyah: Jurnal Hukum Islam* 2, No. 1 (2017), h. 57–68.

²⁴B. Nurdin Yakub, *Hukum Kekerabatan Minangkabau*. (Bukittinggi: CV. Pustaka Indonesia, 1995), h. 21.

²⁵Malik, Rahman, "Ikatan Kekerabatan Etnis Minangkabau dalam Melestarikan Nilai Budaya Minangkabau di Perantauan Sebagai Wujud Warga Negara Kesatuan Republik Indonesia." *Jurnal Analisa Sosiologi* 5, No. 2 (2016), h. 17.

²⁶Eric, Eric, "Hubungan Antara Hukum Islam dan Hukum Adat Dalam Pembagian Warisan di dalam Masyarakat Minangkabau." *Jurnal Muara Ilmu Sosial, Humaniora, dan Seni* 3, No. 1 (2019), h. 61–70.

salamo aie bilie. In other words, the asset will not be able to be redeemed at any time because it is considered to be off-ownership using pawn. The pawn debtor may be unable to redeem the asset. Another possibility is that the pawn debtor has no descendant of the generation is extinct so that at any time, the asset is impossible to redeem.

To put high heritage assets in pawn, some provisions must be applied.

- a. Pawn is valid if it is approved by all members of the family. If one person disapproves, it is automatically canceled by Law.
- b. Pawn has no expiration time.
- c. The pawn debtor has the first right to cultivate the land unless he wants to hand it over to someone else.
- d. Pawnbroker should not pawn the land to other parties without permission from the landowner. However, due to the influence of western law, the pawnbroker may pawn it to other parties.
- e. In pawning, the pawn debtor may ask for additional pawn money. However, the payoff must be done at once.
- f. If one of the parties involved in the pawning agreement dies, he is replaced by his heir.

There are four reasons in which pawning of high heritage assets to Minangkabau people in general or to people who particularly live in Kanagarian Ganggo Mudiak can be done. Other than those four reasons, pawn practice cannot be undertaken because high heritage assets are an emblem, symbol, or prestige of a family; the more they have, the higher their status will be. Therefore, pawning high heritage assets is a disgrace for the Minangkabau people for a quite long time. Pawning, however, can be done for accidental reasons such as

- a. *Rumah gadang katirisan*. High heritage assets can be pawned as long as it serves the purpose of fixing the broken *Rumah Gadang*, a place where a family lives and a significant

symbol of a family. For that matter, should the house be highly critical of damage such as leaking roof, brittle wall, and pillar, decayed floor, high heritage assets may be used as collateral in the mortgage to finance these repairs?²⁷

- b. *Gadib gadang indak balaki*. Should a woman who is old enough to get married does not have money to hold a wedding party, high heritage assets can be pawned to finance the marriage. In Minangkabau, a grown-up woman who has not got married yet is deemed a disgrace to the family. Therefore, pawning is legally done.²⁸
- c. *Maik tabujua tangab rumah*. If someone in a family died, the family members are going to need money to bury that person. When the members of the family do not have money to hold the funeral, high heritage assets, therefore, can be pawned to finance the funeral.²⁹
- d. *Mambangkik batang tarandam*. It is a ceremonial *adat* to give title *datuak* to a family. *Datuak* is a title that represents a leader in a clan in Minangkabau. Having *datuak*, a leader is crucial in Minangkabau society because *datuak* will protect and lead his people.³⁰

2. Analyze

²⁷Djaman Datoek Toeh, *Tambo Alam Minangkabau*. (Bukittinggi: Pusaka Indonesia, 1985), h. 56.

²⁸Yendra, S. S, and M. Hum, *Wujud Kias dalam Tambo Minangkabau*. STKIP PGRI Sumatera Barat, 2016. h. 133.

²⁹Yazan, S., and A. Arwemi, "Land-Use Guidelines in Tambo Minangkabau Oral Literature." In , Vol. 145, No. 1, p. 012029," in *IOP Conference Series: Earth and Environmental Science* Vol. 145, No. 1, p. 012029. IOP Publishing, 2018. h. 12.

³⁰Sulaiman Saleh, Dini Faisal, M. Ds, and Henra Afriwan, "Perancangan Motion Graphic Tambo Alam Asal Usul Nenek Moyang Minangkabau Sebagai Media Pembelajaran Budaya Alam Minangkabau." *DEKAVE: Jurnal Desain Komunikasi Visual* 9, No. 1 (2019), h. 5.

Pawning called *rahnum* in the Arabic language has various meanings such as collateral,³¹ and restraint.³² In the holy Al-Qur'an, it is mentioned

كُلُّ نَفْسٍ بِمَا كَسَبَتْ رَهِينَةٌ

“Everyone is responsible (restrained) for what they have done.”
(Q.S. Al- Mudatsir: 38)

Pawn literally means

جعل عين لها قيمة مالية في نظر الشرع وثيقة بدين بحيث يمكن أخذ ذلك الدين أو
أخذ بعضه من تلك العين

“Pawn is to make an item that has a syara’ value as collateral for debt, so that the pawnbroker may take advantage of the item in whole or in part (HR. al-Baihaqy)”.

Based on the above-mentioned definition, it is clearly understood that a pawn is collateral given by a pawn debtor to the pawnbroker for the amount of money she/he borrows.³³ Moreover, collateral can be in the form of materials such as land and plantations or just something that symbolizes an item and is recognized legally and formally such as land certificates, house certificates, motor vehicle owner's books, and so on.³⁴ The pawnbroker is responsible for maintaining the collateral until the pawn debtor can return it to the pawnbroker. When the debt is repaid, the collateral is automatically returned to the original owner without conditions.³⁵ Accordingly, Pawn is a form of *muamalah*

³¹Aplikasi Al-Qur'an Terjemah.

³²Aplikasi Al-Qur'an Terjemah.

³³Idrus, *Rangkaian Mustika Adat Basandi Syarak di Minangkabau*. (Bandung: Remaja Rosdakarya, 1994), h. 20.

³⁴Putra, Arif Kurnia, Wimbrayardi Wimbrayardi, and Irdhan Epria Darma Putra. “Bakodek Jo Nan Singkek.” *Jurnal Sendratisik* 3, No. 2 (2014), h. 1–10

³⁵Izmi, Nelly, “Konsepsi Adat Basandi Syara’, Syara’Basandi Kitabulloh dan Implikasinya pada Dunia Pendidikan.” *AL-KARIM* 4, No. 2 (2019), h. 40–55

interaction that is permissible in Islam because pawns can provide convenience and assistance for people in need.³⁶

The practice of pawning high heritage assets that occur in Kanagarian Ganggo Mudiak is a pawn in which the collateral held by a pawnbroker is in the form of material such as land. It is because the people do not have certificates as legal proof of ownership. High heritage assets do not belong to one particular person; however, it belongs to all members of a family/a clan. Thus, it is not commonly certified. Should this be collateral, the pawnbroker will hold the materials or lands until it is repaid.

It turns out that the high heritage assets, agricultural land, and plantations used as collateral, are not just detained. It is cultivated by the pawnbroker who will take the benefits from the land. The crops such as rice, for instance, planted and cultivated by *curtain* or pawnbroker are used to fulfill the pawnbroker's daily needs. It continually happens until the pawn debtor can pay the debt. The benefits from the land are quite much; it even exceeds the amount of money lent. This pawn practice has been running in Kanagarian Ganggo Mudiak for quite some time.

This pawn practice, nevertheless, is not by Islamic teachings.³⁷ As previously mentioned, the purpose of pawn is to help people who face an economical crisis. The method practiced in Kanagarian Ganggo Mudiak benefits one party but harms another.³⁸ The beneficiary is a pawnbroker due to his right to manage and get many profits from collateral and the aggrieved party is the pawn debtor in which they can no longer use the assets in pawn to fulfill their daily needs.

If the agricultural land or plantation in pawn is the only asset to earn money and fulfill daily needs, then it is seen that there will not be any opportunity to take it back. Besides, it will be difficult to pay off the debt since there is no more land to be

³⁶Misno, Abdurrahman, "Gadai dalam Syari'at Islam." *Ad-Deenar: Jurnal Ekonomi dan Bisnis Islam* 1, No. 01 (2018), h. 26–39

³⁷Amir, Rahma, "Gadai Tanah Perspektif Ekonomi Islam." *MUAMALAH* 5, No. 1 (2015), h. 81–90

³⁸Ali, Zainuddin, *Hukum Gadai Syariah*, (Sinar Grafika, 2021)

cultivated. This method of pawn causes one party to get hurt which leads to the loss of family livelihoods. Meanwhile, the pawnbroker will get richer. It eventually leads to an increase in the poverty rate.³⁹

This pawn practice is opposed to Islamic teachings. It is due to an unreasonable number of benefits obtained by the pawnbroker. The pawnbroker continually gets benefits from the land in pawn until all the debts are paid off.⁴⁰ If it takes many years to pay off, the amount of money that pawnbrokers got may have exceeded the money lent or even the price of the land itself.⁴¹

In Islam,⁴² every debt that can give profits to the person giving the debt is categorized as usury (lending someone money with the agreement that they will pay back larger).⁴³ Every profit obtained by the pawnbroker from the assets that are used as collateral in the pawn is the same as multiplying payments on debts which is classified as usury.⁴⁴ Usury is forbidden in Islam.⁴⁵ As it is explained in *Hadis* Rasulullah

كُلُّ قَرْضٍ جَرَّ مَنَفَعَةً فَهُوَ رِبًا

“Every debt which gains profits, it is usury (HR. al-Baihaqy)”.

³⁹Mahmud, Yunus, *Kamus Arab Indonesia*, (Jakarta: Yayasan Penyelenggaraan Penterjemah Penafsiran al-Qur'an, 1998), h. 321

⁴⁰Sayyid, S, *Fiqhu al-Sunnah*, (Cairo: Daru Al-Fathi Li'Ilami Al-Araby, 2003), h. 11

⁴¹Malik, Mohd Puaad Abdul, “Analisis Penulisan Syeikh Muhammad Tahir Jalaluddin dalam Kitab Ta'yid Tadhkirah Muttabi'Al-Sunnah (Analysis of Writing of Syeikh Muhammad Tahir Jalaluddin in Ta'yid Tadhkirah Muttabi'Al-Sunnah).” *Journal of Al-Tamaddun* 12, No. 1 (2017), h. 67–78

⁴²Wahbah, Z, *Fiqhu Al-Islamy Wa Adillatuhu*, (Beirut: Daru al-Fikri, 1985), h. 231

⁴³Ulum, Khozainul, “Hakikat Keharaman Riba dalam Islam,” *JES (Jurnal Ekonomi Syariah)* 1, No. 1 (2016), h. 115

⁴⁴Naufal, Ahmad, “Riba dalam Al-Quran dan Strategi Menghadapinya.” *Al Maal: Journal of Islamic Economics and Banking* 1, No. 1 (2019), h. 100–116.

⁴⁵Pakpahan, Elpianti Sahara, “Pengharaman Riba dalam Islam.” *Jurnal Ilmiah Al-Hadi* 4, No. 2 (2020), h. 865–76.

The prohibition of usury in Islam is very firm and clear because it is forbidden by *qath`iyu al tsubut* and *qath`iyu al dililah dalil*. As it is stated in Al-Qur'an,

الَّذِينَ يَأْكُلُونَ الرِّبَا لَا يُغْمَرُونَ إِلَّا كَمَا يُغْمَرُ الَّذِي يَتَخَبَّطُهُ الشَّيْطَانُ مِنَ الْمَسِّ ۚ ذَٰلِكَ بِأَنَّهُمْ قَالُوا إِنَّمَا الْبَيْعُ مِثْلُ الرِّبَا ۗ وَأَحَلَّ اللَّهُ الْبَيْعَ وَحَرَّمَ الرِّبَا ۚ فَمَنْ جَاءَهُ مَوْعِظَةٌ مِنْ رَبِّهِ فَانْتَهَىٰ فَلَهُ مَا سَلَفَ وَأَمْرُهُ إِلَى اللَّهِ ۗ وَمَنْ عَادَ فَأُولَٰئِكَ أَصْحَابُ النَّارِ هُمْ فِيهَا خَالِدُونَ ۖ يَمْحَقُ اللَّهُ الرِّبَا وَيُزِيلُ الصَّدَقَاتِ ۗ وَاللَّهُ لَا يُحِبُّ كُلَّ كَفَّارٍ أَثِيمٍ

“Those who swallow down usury cannot arise except as one whom Shaitan has prostrated by (his) touch does rise. They say that trading is only like usury; Allah has allowed trading and forbidden usury. To whomsoever then the admonition has come from his Lord, then he desists, he shall have what has already passed, and his affair is in the hands of Allah, and whoever returns (to it) – this arc the inmates of the fire; they shall abide in it. Allah does not bless usury, and He causes charitable deeds to prosper, and Allah does not love any ungrateful sinner (Q.S. Al-Baqharah:275-276)”.

In Hadist, it is clearly explained that

عَنْ جَابِرٍ قَالَ لَعَنَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ آكِلَ الرِّبَا وَمُؤَكِّلَهُ وَكَاتِبَهُ وَشَاهِدَيْهِ وَقَالَ هُمْ سَوَاءٌ

“From Jabir ra, it is said that the Prophet Muhammad SAW cursed the person who ate usury, the person who gave it, the writer who writes it and two witnesses, and he said, they were all the same (HR. Muslim)”.

It is apprehended that the *pagang gadai* high heritage assets practiced in Ganggo Mudiak are against Islamic teachings. It is because, in the *pagang gadai* practice, pawnbroker earns more profits which beget poverty to another party. Furthermore, allowing or preserving the practice of *pagang gadai* in the community will cause huge disasters and wrath from Allah SWT.

Should this kind of *pagang gadai* practice be avoidable, the pawnbroker cannot take advantage and profit more than the amount of money the pawn debtor borrows. When the pawnbroker has gotten profits equivalent to the money he lent, the pawnbroker is obliged to return the property without asking for the money that had been lent at the first contract. Therefore, the people can be free from this *pagang gadai* practice.

D. Conclusions

Pagang gadai practice in Kanagarian Ganggo Mudiak, Bonjol Subdistrict, Pasaman Regency is almost similar to all areas in Minangkabau. The practice is against Islamic teachings. It is due to a lack of public understanding of the *pagang gadai* practice which must be by Islamic law. As a result, it causes harm to pawn debtors. In addition, about Islamic teachings, people are allowed to do *pagang gadai* practice to provide convenience in socializing with others. Among many benefits of *pagang gadai*, one of them is to forge the affability of supportive societies in which they help others who face economic crises. Helping others who are suffering is indeed a noble act. Whereas taking advantage of poor people is a cowardly act.

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